



**US Army Corps
of Engineers.**

Public Notice

Public Notice No. **05-44**

Date: **July 20, 2005**

Nashville District

Application No. **200400065**

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE **US ARMY CORPS OF ENGINEERS** **AND** **COMMONWEALTH OF KENTUCKY**

SUBJECT: Proposed Coal Mining in Bell County, Kentucky - Kentucky Department for Natural Resources (KDNR) #807-0306, Garmeada Surface Mine #1.

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Before a permit can be issued, certification must be provided by the Commonwealth of Kentucky, Division of Water (KDOW), pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification. The applicant intended to provide a package of information directly to the KDOW for their review.

APPLICANT: Strata Mining, Inc.
P.O. Box 962
901 East Cumberland Avenue
Middlesboro, Kentucky 40965

AGENT: Howard Engineering & Geology, Inc.
P.O. Box 271
Harlan, Kentucky 40831

LOCATION: The proposed permit area is located near Capito in Bell County, Kentucky. Watersheds include Martins Branch and an unnamed tributary, Sues Branch and an unnamed tributary, Coal Creek and three unnamed tributaries, and an unnamed tributary of Stony Fork. All the noted waterways are in the Stony Fork watershed, a tributary to Yellow Creek Bypass, an eventual tributary to the Cumberland River Mile 660.0. The site is on the Forkridge, KY-TN 7.5 Minute Quadrangle at Latitude 36° 36' 43" North, Longitude 83° 49' 29" West.

DESCRIPTION: Strata Mining, Inc. has applied to the KDNR for a Surface Mining Control and Reclamation Act (SMCRA) permit to conduct mining activities encompassing approximately 518.75 acres of surface mining and 145.23 acres of auger mining. Strata Mining, Inc. has applied to this office for an individual DA permit to permanently and temporarily discharge fill material into streams associated with the mining operation. Specific work requiring DA authorization includes the temporary discharge of material associated with mining cuts impacting Coal Creek, Sues, Branch, Martins Branch and six unnamed streams.

Overall the anticipated impacts to waters of the U.S. would total 10,342 linear feet. Impacts associated with the mining are limited to mining cuts. Excess material fills and sediment ponds have been located outside of waters of the U.S. A breakdown of the stream impacts is attached to the notice.

Mitigation for the impact would be performed onsite. Mitigation for the mining cuts would be performed concurrently with the mining operation. The applicant proposes the construction of stream channels that mimic natural, normal flow channel beds. The full bank width will be designed to accommodate a 100 year, 24 hour storm event. The channel would be constructed in an irregular shape to facilitate the development of natural meander with riffle and pool complexes. Step pools would be established at various locations by placing sandstone boulders in the channel in a cross-vane configuration. Vegetation would be planted in the proposed riparian zone as prescribed in the attached table. The riparian width proposed is 100 linear feet from the centerline of the reconstructed channel. The applicant applied the Eastern Kentucky Stream Assessment Protocol to the project to quantify the anticipated impacts and the proposed mitigation effort.

General plans of the work and tables listing specific impact reaches and mitigation reaches are attached to this notice. Additional plans and information, including the mitigation proposal and documentation provided in support of the permit application, are available upon request.

The permit decision will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the work, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the work, will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of

the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. Comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above and used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. This office will prepare an EA prior to a final decision concerning issuance or denial of the requested DA Permit.

McGraw, Inc. prepared an archaeological report entitled "Phase I Archeological Survey of the Strata Mining, Inc. Stoney Fork Coal Permit Area, Bell County, Kentucky". The report found no evidence of prehistoric or early historic occupation in the permit area and recommended no further work. The Kentucky Heritage Council (KHC) concurred and no further review of the site was recommended. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or historic properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or historic properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer and the U.S. Department of the Interior, National Park Service in Atlanta.

The applicant prepared a Protection and Enhancement Plan (PEP) for the Indiana Bat (*Myotis sodalis*). The U.S. Fish and Wildlife Service (USFWS) reviewed the plan and concluded that the plan is acceptable.

No other federally threatened or endangered species are known to exist in the proposed permit area. A copy of this notice is being furnished to the USFWS. The USFWS is requested to review the project as currently proposed and comment concerning any likely effect to any threatened or endangered species or their critical habitat. Initiation of formal consultation procedures with the USFWS is not planned at this time.

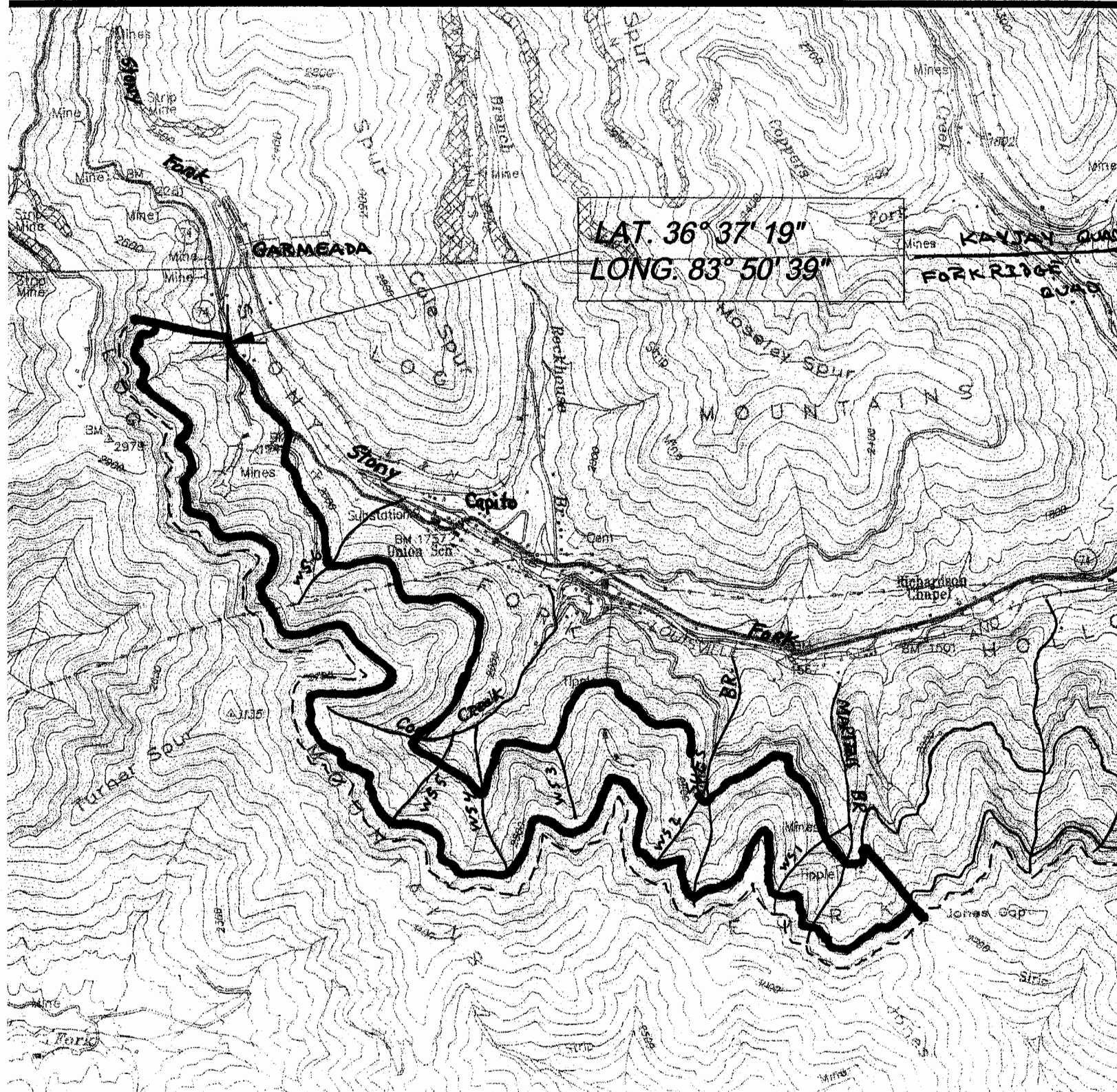
Other federal, state, and local approvals required for the proposed work are as follows:

- a. Water quality certification from the KDOW in accordance with Section 401(a)(1) of the Clean Water Act.

- b. A Surface Mining Control and Reclamation Act (SMCRA) permit from the KDNR.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

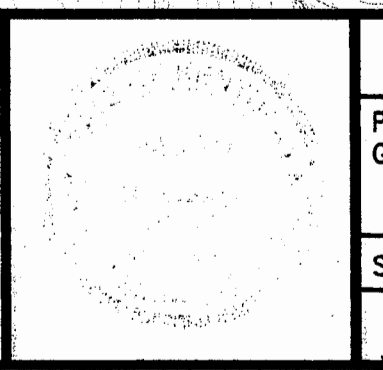
Written statements received on or before August 19, 2005, will become a part of the record and will be considered in the determination. Written responses to this notice should be directed to the Regulatory Branch, Attention: Mr. Marty Tyree, at the above address. Questions can be directed to Mr. Tyree at (615) 369-7514. It is not necessary to comment separately to the KDOW since copies of the comments will be forwarded to that agency. However, if you wish to send §401 Water Quality Certification specific comments directly to that agency, please send your comments to Mr. Danny Peake, KDOW, 14 Reilly Road, Frankfort, Kentucky 40601.

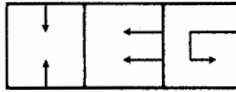


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Strata Mining, Inc. #807-0306
Location of Impact Reaches from Mining Cuts
Forkridge, KY-TN Quad.
Lat. 36° 36' 43", Long. 83° 49' 29"

_____, P.E. No. 15,317

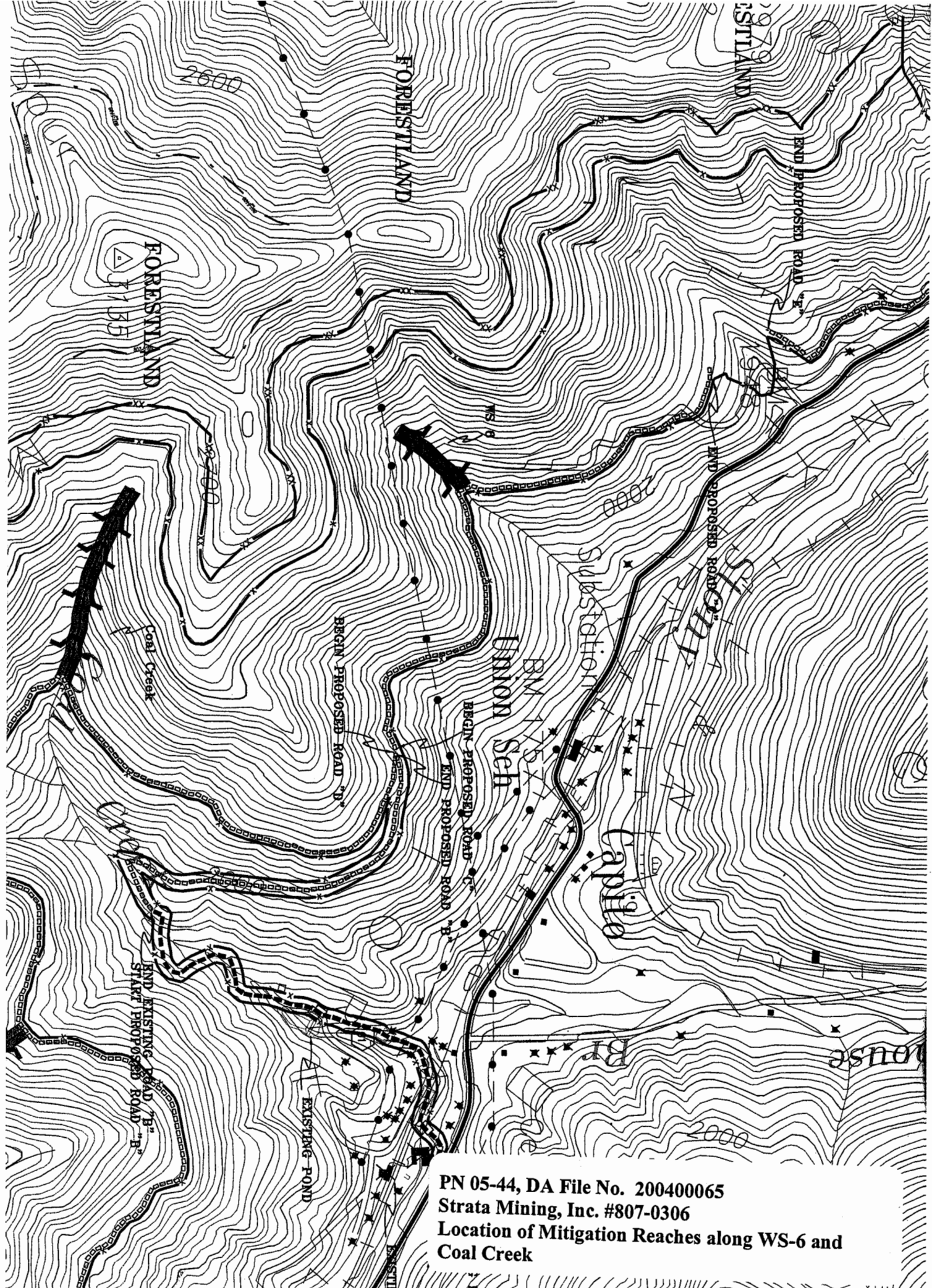
405 KAR 7:040, Section 10,
determined by accepted
all information required
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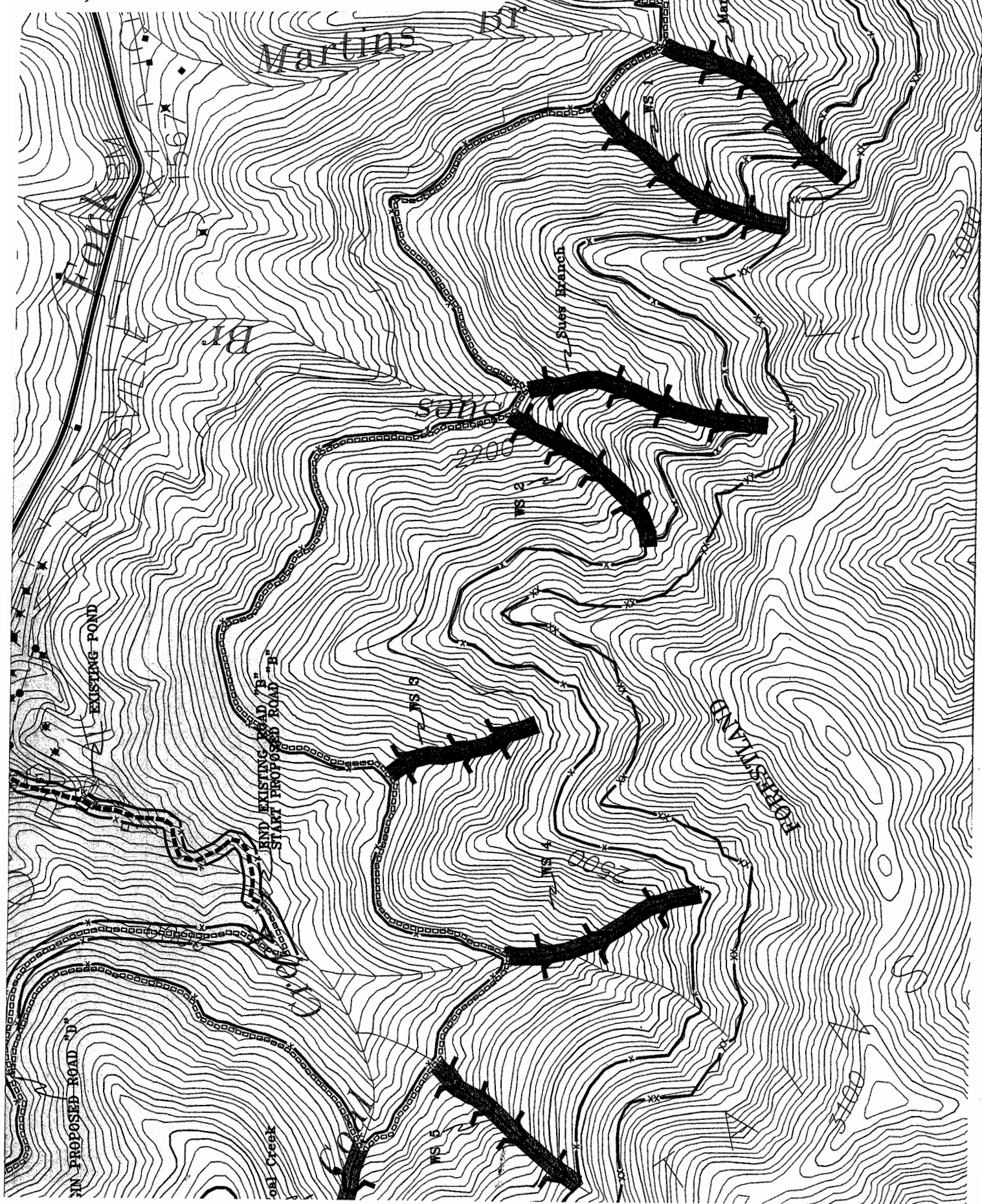
watershed	Impact Length (linear feet)	Mitigation Length offered
Coal Creek	1,317 feet	887 feet
Martins Branch	1,233 feet	1,446 feet
Sues Branch	1,460 feet	1,560 feet
Watershed #1	1,169 feet	1,441 feet
Watershed #2	1,165 feet	919 feet
Watershed #3	998 feet	1,202 feet
Watershed #4	1,271 feet	1,345 feet
Watershed #5	1,139 feet	1,147 feet
Watershed #6	590 feet	948 feet

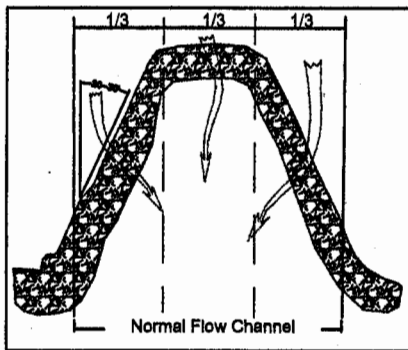
PN 05-44, DA File No. 200400065
Strata Mining, Inc. #807-0306
Summary of Impact Lengths - Coal Creek, Sues
Branch, Martins Branch and Watersheds (WS) 1-6



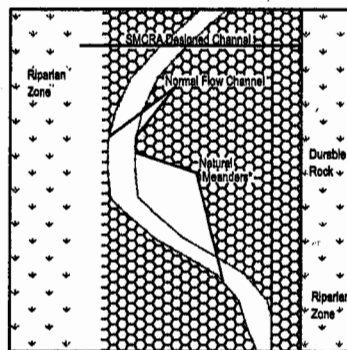
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Strata Mining, Inc. #807-0306
Location of Mitigation Reaches along WS-6 and
Coal Creek

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Strata Mining, Inc. #807-0306
Location of Mitigation Reaches along WS 1-5, Sues
Branch, and Martins Branch

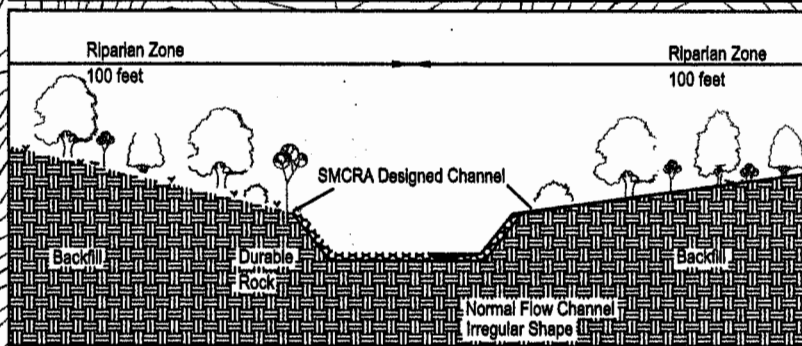




Step-Pool by Cross-Vane Structure



Riparian Channel Plan View



Cross Section
Typical Channel Configuration

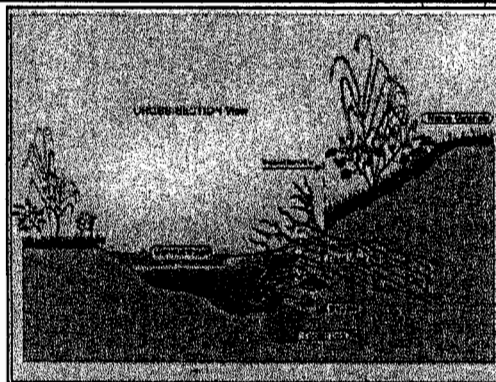


FIGURE 8-24. Native material bank revegetation. (Roggen, 1993d)

Legend

Stream Channel

